

VIRGINIA DEPARTMENT OF EDUCATION
PROCEDURES FOR ENSURING COMPLIANCE

(Revised July 18, 2002)

AUTHORITY: 8 VAC 20-80-140. Funding, withholding, and recovery of funds. If documentation of compliance is not submitted or is inadequate, the Superintendent of Public Instruction shall notify the local educational agency that state and federal funds will not be available for reimbursement for special education programs and services.

What are the VDOE's procedures to ensure timely correction of identified noncompliance that result from monitoring?

The VDOE, in collaboration with school divisions, employs the following procedures to ensure timely correction of noncompliance findings:

- Prior to the department's on-site monitoring, each school division is required to conduct a comprehensive self-assessment of their special education program. A program improvement plan is developed with strategies the school division will use to correct the unmet requirements and to address identified concerns.
- Annual informational forums are offered for the school divisions in the self-assessment phase of the monitoring process. The forums provide special education directors and coordinators information and guidance to conducting their self-assessments and developing program improvement plans.
- On-going technical assistance and professional development are made available through the regional training/technical assistance centers (T/TACs) and the department's special education technical assistance specialists.
- Systemic issues are identified through the analysis of findings from all monitoring functions, including complaint investigations, due process hearing and review decisions, mediation, previous self-assessment and on-site monitoring reports, OCR and OSEP court decisions, and other relative data, as an integral part of the monitoring system. The information is made available to all school divisions for assessment of their own programs.
- Written assurance is obtained from the division superintendent that the unmet requirements will be corrected in a reasonable time period.

- Sixty days following the on-site review, the school division provides VDOE with a compliance progress report.
- The monitoring specialists conduct timely onsite follow-up reviews and track the school divisions' progress in meeting the unmet requirements.
- Team meetings, consisting of staff members from special education, due process and complaints, and monitoring specialists are used to discuss issues and make recommendations for plans of action.
- Consequences are imposed to include requiring the submission of reports at regular intervals, imposing additional monitoring, and requiring professional development when unmet requirements are identified through monitoring functions.
- A conference may be held with the Superintendent of Public Instruction or designee(s) to discuss noncompliance findings and the required actions by the school division.

How does VDOE determine whether corrective actions have been effective?

A critical phase of the monitoring process is verification of corrective actions. The first activity for on-site monitoring visits is to follow up on the effectiveness of the LEA's program improvement/corrective action plan that resulted from their self-assessment. Activities to determine effectiveness include record reviews, interviews, observations, and public meetings and interviews with parents. Further verification is evidenced through follow up visits that include additional record reviews, visits to schools, interviews with administrators, teachers, and students and a review of complaints and due process proceedings files.

What measures are taken when it is determined that a school division has consistently failed to correct identified unmet requirements?

Staffs determine why the corrective actions were not implemented or why the division's practice has not been corrected. If noncompliance persists despite VDOE's efforts to work with school officials, then the situation is reviewed with the regional technical assistance team to determine whether formal enforcement action should be recommended to the Assistant Superintendent of Accountability and the Assistant Superintendent of Instructional Support Services.

Enforcement may be recommended:

- If the school division fails to submit an approved plan for correcting the unmet requirements within 60 calendar days from the approval of the monitoring report or issuance of the required corrective action
- If the school division fails to demonstrate substantial progress toward correcting the deficiencies within 90 calendar days from the approval of the school division's plan for correcting the unmet requirements, or according to mutually agreed timelines. (Timelines may be extended when deemed appropriate, ex., corrective action requires building or classroom renovation, relocation of classes, reassignment or organization of personnel, employment of qualified personnel, or unforeseen circumstances).

Withholding of reimbursements

After providing the division superintendent reasonable notice that there has been a failure by the school division to comply substantially with any provision of Part B, the department may withhold, in whole or in part, any further reimbursements to the school division or redirect funds under Part B.

The VDOE shall provide written notice of enforcement to the division superintendent and provide notice of the school division's right to request a hearing. The division superintendent may file an appeal within 15 business days after receiving written notice of the imposed sanctions and enforcement.

If the agency finds, after providing the division superintendent reasonable notice and an opportunity for a hearing, that there has been a failure by the school division to comply substantially with Part B, the department may refer the matter to the Board of Education or the Attorney General.